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In re Application of
Ronald Nasco
Application No. 10/634,189
Filed: August 4, 2003
Attorney Docket No. 3023.2.6

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the amendment filed November 15, 2004.

The petition is DISMISSED.

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (2)

Petitioner has submitted \$1330.00. However, the surcharge fee required to accompany a petition under 37 CFR 1.78 is \$1370.00. See 37 CFR 1.17(t). As such, the petition will not be reviewed on the merits at this time. Petitioner must submit an additional \$40.00.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.


Frances Hicks
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Office of the Deputy Commissioner
for Patent Examination Policy